

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT COURT OF NEW YORK

JOHN GORMAN,

Plaintiff,

Civil Case No.: 1:14-cv-434

-against-

RENSSELAER COUNTY, ET. AL

Defendants.

**ATTORNEY'S DECLARATION OF PATRICK SORSBY IN SUPPORT OF THE
MOTION TO COMPEL DISCOVERY UNDER RULE 37**

PATRICK SORSBY, being aware of the penalties for perjury, hereby declares that:

1. I am an attorney duly licensed and admitted to practice law in the United States District Court for the Northern District of New York, and I am the principle shareholder of The Law Office of Patrick Sorsby PLLC counsel for the Plaintiff John Gorman.

2. I make and file this Declaration based on my own personal and first-hand knowledge regarding the facts and documents set forth herein and attached hereto, and upon information and belief where so noted, in support of the Plaintiff's Motion to Compel Discovery.

3. I respectfully move this court to compel Defendants to Respond to Plaintiffs First and Second Discovery Request pursuant to rule 37 (3)(b)(iv) of the Federal Rules of Civil Procedure.

4. Discovery closes in this matter on April 29, 2016. This discovery closure date is immovable pursuant to Court Order (Docket # 85 "no further extensions will be granted"). At a

discovery conference on January 20th this court held that if the Defendants failed to respond to Plaintiff's Discovery requests within 30 days of the conference that the Plaintiff could file a motion to compel without leave of court (see Docket # 85).

5. At the January discovery conference your Honor requested a copy of Plaintiffs Second Discovery Request and copy of the same was given to court on the record at that time. Therefore Plaintiff has complied with Local Rule 7.1. Nonetheless out of an abundance of caution Plaintiffs First and Second Discovery Requests are affixed hereto as exhibits "A" and "B" respectively. Additionally Defendant's incomplete Response to Plaintiff's First Discovery Request is affixed hereto as Exhibit "C"

6. Plaintiffs First Discovery Request was served on the Defendants on August 18, 2015 and their response was due on September 18, 2015. The Defendants Response to Plaintiffs First Discovery request is incomplete in that the Defendants have failed to provide any materials responsive to Requests 21, 22, and 23. Additionally Defendants have yet to provide a copy of the disposition of the matter of the People v Patricelli which was also requested in Plaintiffs First Discovery Request.

7. Plaintiffs Second Document Request was served on October 9, 2015 and Defendants Response was due November 9, 2015. As of March 3, 2016 the Defendants still have not served ANY response to Plaintiffs Second Discovery Request. Just to reiterate the Defendants have not responded in any way, whether by objecting or answering, to Plaintiffs Second Document Request.

8. The Plaintiff cannot examine the remaining deponents both of which are major party Defendants without discovery responses. The return date on a motion by notice would be after April 1. This would mean that the court's decision on the motion may not be rendered until about

the second week of April. Said decision would likely give the Defendants at least week to comply. This would make the scheduling of the remaining depositions precariously close to the discovery deadline. This all assumes that there are no scheduling problems with deponents and that there is no further discovery disputes when the Defendants finally do respond to Plaintiffs Discovery Requests.

6. Plaintiff's Counsel has in good faith conferred or attempted to confer with the Attorney for the Defendants Kevin Martin in an effort to obtain Defendants outstanding discovery responses without court action. Specifically Plaintiff's Counsel has had multiple written communications and phone conferences regarding the outstanding discovery to no avail. In fact this court ordered that the parties meet and confer regarding the outstanding discovery before any discovery conference would be scheduled. After conferring with Mr. Martin proved fruitless I wrote the asking for a discovery conference. This request was granted and the conference was set for January 20th . At the January 20th conference the Court ordered that Defendants must serve their discovery response by February 20th (30 days after Conference) .

7. That attached as Exhibit "D" is a compilation of the emails between Mr. Martin and myself in regards to the outstanding discovery.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: March 3, 2016

Respectfully submitted by,

By _____ S/
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